

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 30

[Docket No. 980929251-8329-02]

RIN 0607-AA19

Amendment to Foreign Trade Statistics Regulations: Provisions for Filing Shipper's Export Data Electronically Using the Automated Export System (AES)

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of the Census (Census Bureau) proposes amending the Foreign Trade Statistics Regulations (FTSR) to add provisions for filing shipper's export data electronically using the Automated Export System (AES). The AES is an export information gathering and processing system developed through cooperative efforts between the U.S. Customs Service (Customs), the Census Bureau, other Federal agencies, and the export community. The AES is a completely voluntary system that provides an alternative to filing the paper Shipper's Export Declaration (SED) and will greatly streamline and improve the exporting process. Export information is collected electronically and edited immediately, and errors are detected and corrected at the time of filing. AES is a nationwide system operational at all ports and for all methods of transportation. Customs is also revising appropriate sections of its Customs Regulations in a document published elsewhere in this issue of the **Federal Register**. The Customs regulations will conform to the electronic filing provisions and requirements contained in this proposed rule.

DATES: Written comments must be submitted on or before April 13, 1999.

ADDRESSES: Address all written comments on this proposed rulemaking to the Director, Bureau of the Census, Room 2049, Federal Building 3, Washington, D.C. 20233.

FOR FURTHER INFORMATION CONTACT: C. Harvey Monk, Jr., Chief, Foreign Trade Division, Bureau of the Census, Room 2104, Federal Building 3, Washington, D.C. 20233-6700, by telephone on (301) 457-2255, by fax on (301) 457-2645, or by E-mail at: c.h.monk.jr@ccmail.census.gov.

SUPPLEMENTARY INFORMATION:

Background

On October 9, 1998, Customs and the Census Bureau published a joint notice in the **Federal Register** (63 FR 54438) that informed the public of the current status of the AES. The AES is an electronic reporting system jointly developed by the Census Bureau and Customs that allows exporters or their authorized forwarding agents to transmit commodity SED information, and carriers to transmit transportation (outbound manifest) information. That notice also informed the public of other developments affecting the implementation of the AES and announced that the Census Bureau and Customs would be developing regulations to implement provisions and requirements for filing export information electronically through the AES. Since the Background information contained in that notice fully recounts the development of the AES to date, it is incorporated here by reference. Customs is also revising appropriate sections of its Customs Regulations, 19 CFR, Chapter 1, to reference Census Bureau regulations that will provide for electronic filing requirements using the AES to provide for certain procedural safeguards regarding applicant's/participant's rights vis-a-vis Customs actions, and to provide for a Sea Carriers Manifest Module for the submission of manifest information in the ocean environment. (See Customs' notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**.)

The AES is a joint venture between Customs, the Census Bureau, and other Federal agencies that will provide a seamless Government export information processing system to allow the trade community to report export data electronically. The AES is also the cornerstone of Customs' and the Census Bureau's reinvestment strategy to support and facilitate the movement of exports. Automation will help remove the time consuming paper processing barriers that now hinder the flow of trade. The AES will greatly improve the accuracy of the export data provided to the Census Bureau, and will allow the Census Bureau, in turn, to provide more accurate export data and a wider range of export data needed by businesses to stay competitive in the global trade market today. The AES is in alignment with the long-term global shift to Electronic Data Interchange (EDI), the North American Free Trade Agreement (NAFTA), and the General Agreement on Tariff and Trade (GATT) making it

easier to do business in multiple countries.

The AES will result in the elimination of redundant reporting of export data to multiple agencies. It brings savings in both human resources and paper handling. It greatly increases the accuracy of trade statistics, which will allow for improvement in national economic policy making. Accurate trade information, policy decisions based on sound balance of trade information, prohibition of illegal exports, and effective enforcement of license requirements can be achieved while facilitating the flow of trade. Although paper filing of the SED and manifest documents will still be permitted, it is anticipated that electronic filing through the AES will be the preferred method of export reporting by the trade community in the near future.

This notice of proposed rulemaking includes provisions agreed upon in the Interest Based Negotiations (IBN), between Customs, the Census Bureau, and representatives of the trade community to create an effective automated export reporting program. To ensure that the AES meets current business practices and voluntary acceptance by the trade community, Customs and the Census Bureau entered into IBN with members of the trade community to discuss system enhancements and time frames for the submission of commodity information. As a result of the IBN, two significant improvements to the AES were agreed to: (1) the creation of a filing option that requires no pre-departure information (with the filing of full commodity information within ten (10) working days from the date of exportation); and (2) creation of a two-stage filing option that allows for transmissions where some basic export information is filed prior to exportation with the remainder of the information filed within five (5) working days from the date of exportation.

General Description of the AES Process

The export process begins when the exporter decides to export merchandise as specified in § 30.1. Once the exporter makes this decision, the exporter or his authorized forwarding agent makes shipping arrangements with the carrier. The exporter or his authorized forwarding agent transmits the shipper's export information using the AES. This information can come directly from the exporter or his authorized agent or indirectly from the aforementioned through a service center or port authority. The shipper's export data are transmitted in a timely manner in accordance with the provisions

contained in electronic filing Options 2, 3 and 4 (see § 30.61, *Electronic Filing options*). The AES validates the data against editing tables and U.S. Government agency requirement files and generates either a confirmation message or a fatal error message. The carrier or an authorized forwarding agent transmits the export manifest data using the AES. The AES validates the transportation data then generates either a confirmation message or an error message. The exporter, carrier, or an authorized forwarding agent must attend to any errors generated by the AES. The AES allows the exporter, carrier, or an authorized forwarding agent to transmit corrections.

Program requirements

In order to include provisions for the electronic filing of shipper's export information, the Census Bureau will: (a) amend existing sections of the Foreign Trade Statistics Regulations (FTSR), 15 CFR Part 30, and (b) add a new Subpart E to the FTSR to include provisions for the electronic filing of shipper's export data.

The Census Bureau proposes amending appropriate sections of the FTSR to include provisions for the electronic reporting of export data using the AES.

The Census Bureau proposes amending § 30.1, "*General statement of requirements for Shipper's Export Declarations*," to add a reference that requirements for filing shipper's export data electronically can be found in the new Subpart on electronic filing requirements.

The Census Bureau proposes amending the introductory text of § 30.7, "*Information required on Shipper's Export Declarations*," to specify that the information in this section only applies to the paper SED and referring users to the new Subpart for information required for electronic filing of shipper's export data.

The Census Bureau proposes revising § 30.39, "*Authorization for reporting statistical information other than by means of individual Shipper's Export Declarations filed for each shipment*," to replace existing electronic filing programs with the AES and to reflect current Census Bureau authority to authorize alternative methods of filing shipper's export data.

The Census Bureau proposes amending § 30.91, "*Confidential information, Shipper's Export Declarations*," item (a) "*Confidential status*" to clarify that confidentiality provisions apply to all export information supplied to the Census

Bureau whether filed electronically or in any other approved format.

To include new provisions and requirements for the electronic filing of shipper's export information using the AES, the Census Bureau proposes to add a new Subpart (Subpart E) in the current FTSR on electronic filing requirements for submitting shipper's export information. To accomplish this, the current Subpart E—General Requirements-Importers—will be redesignated to read Subpart F, and Subpart E will be renamed and reserved for "Electronic Filing Requirements-Shippers Export Information." The current Subpart F will be redesignated Subpart G—Special Provisions for Particular Types of Import Transactions. The current Subpart G will be redesignated Subpart H—General Administrative Provisions.

The proposed new Subpart E—Electronic Filing Requirements-Shipper's Export Information will—consist of §§ 30.60 through 30.66 to include:

- § 30.60 General requirements for filing export and manifest data electronically using the Automated Export System (AES)
- § 30.61 Electronic filing options
- § 30.62 Certification, qualifications and standards
- § 30.63 Information required to be reported electronically through AES (data elements)
- § 30.64 Transmitting and correcting AES information
- § 30.65 Annotating the proper exemption legends for shipments transmitted electronically
- § 30.66 Recordkeeping and documentation requirements

The revisions contained in this notice of proposed rulemaking are consistent with the provisions of the Customs Regulations. The U.S. Customs Service, Department of the Treasury, concurs with the provisions contained in this notice of proposed rulemaking.

Rulemaking Requirements

This notice of proposed rulemaking is exempt from all requirements of Section 553 of the Administrative Procedures Act because it deals with a foreign affairs function (5 U.S.C. (A) (1)). However, this notice of proposed rulemaking is being published with an opportunity for public comment because of the importance of the issues raised by this notice of proposed rulemaking to the trade community.

Regulatory Flexibility Act

Because a notice of proposed rulemaking is not required by 5 U.S.C. 553 or any other law, a Regulatory

Flexibility Analysis is not required and has not been prepared (5 U.S.C. 603(a)).

Executive Orders

This notice of proposed rulemaking has been determined to be not significant for purposes of Executive Order 12866. This rule does not contain policies with Federalism implications sufficient to warrant preparation of the Federalism assessment under Executive Order 12612.

Paperwork Reduction Act

Notwithstanding any other provisions of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This notice of proposed rulemaking covers collections of information subject to the provisions of the PRA, which were cleared by OMB under OMB control number 0607-0152.

This notice of proposed rulemaking will have no impact on the current reporting-hour burden requirements as approved under OMB control number 0607-0152 under provisions of the PRA of 1995, Public Law 104-13.

List of Subjects in 15 CFR Part 30

Economic statistics, Exports, Foreign trade, Reporting and recordkeeping requirements.

Proposed Amendments to 15 CFR Part 30

For the reasons set out in the preamble, the Census Bureau proposes to amend 15 CFR chapter I, part 30, as follows:

PART 30—FOREIGN TRADE STATISTICS

1. The authority citation for 15 CFR part 30 continues to read as follows:

Authority: 5 U.S.C. 301; 13 U.S.C. 301-307; Reorganization Plan No. 5 of 1950 (3 CFR 1949-1953 Comp., 1004); Department of Commerce Organization Order No. 35-2A. August 4, 1975, 40 FR 42765.

Subpart A—General Requirements—Exporters

2. Section 30.1 is amended by adding paragraph (c) to read as follows:

§ 30.1 General statement of requirements for Shipper's Export Declarations.

* * * * *

(c) In lieu of filing paper Shipper's Export Declarations as provided above, exporters or their authorized forwarding

agents have the option to file shipper's export information electronically, as provided in Subpart E of this part. The Electronic filing requirements for filing shipper's export declaration information are contained in Subpart E of this part, Electronic Filing Requirements—Shipper's Export Information.

3. Section 30.7 is amended by revising the introductory text to read as follows:

§ 30.7 Information required on Shipper's Export Declarations.

The following information shall be furnished in the appropriate spaces provided on the paper copy of the Shipper's Export Declaration and shall conform to the requirements set forth in this section. (See § 30.92 for information as to the statistical classification Schedules C and D referred to in this section. Also, see § 30.8 for information required on Form 7513 in addition to these requirements.) For information required to be filed electronically see § 30.63.

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Subpart C—Special Provisions Applicable Under Particular Circumstances

4. Section 30.39 is revised to read as follows:

§ 30.39 Authorization for reporting statistical information other than by means of individual Shipper's Export Declarations filed for each shipment.

(a) The Census Bureau, with the concurrence of appropriate government agencies, may authorize exemptions from the requirement of § 30.6 that a separate shipper's export declaration be filed for each shipment.

(b) Application for certification and approval to file shipper's export data electronically using the Automated Export System (AES) can be made directly to the Census Bureau in accordance with the provisions specified in § 30.60. Certification and approval procedures and qualification standards for filing shipper's export data electronically are contained in § 30.62.

(c) Authorization for other alternative methods of filing shipper's export information will be issued only when, in the judgment of the Census Bureau, complete and accurate information will be available on a prescribed basis from the records of the applicant, and where the alternate filing method for shipments represents a reduction of reporting cost or burden. Where export control is a consideration, such authorizations will be granted only when, in the judgment of the appropriate controlling government agency, the applicant has demonstrated

that it has established adequate internal operating procedures and has taken other satisfactory safeguards to assure compliance with export control regulations of the appropriate government agency or agencies.

Subparts E through G [Redesignated as Subparts F Through H]

5. Subparts E through G are redesignated as Subparts F through H, respectively.

6. A new Subpart E, consisting of §§ 30.60 through 30.66, is added to read as follows:

Subpart E—Electronic Filing Requirements—Shipper's Export Information

Sec.

30.60 General requirements for filing export and manifest data electronically using the Automated Export System (AES).

30.61 Electronic filing options.

30.62 AES Certification, qualifications, and standards.

30.63 Information required to be reported electronically through AES (data elements).

30.64 Transmitting and correcting AES information.

30.65 Annotating the proper exemption legends for shipments transmitted electronically.

30.66 Recordkeeping and documentation requirements.

Subpart E—Electronic Filing Requirements—Shipper's Export Information

§ 30.60 General requirements for filing export and manifest data electronically using the Automated Export System (AES).

Automated Export System (AES) transmissions by exporters or their authorized agents that meet the requirements of this Subpart constitute the Shipper's Export Declaration (SED) for purposes of 15 CFR Part 30. This section outlines the general requirements for participating in the AES. Several filing options are available for transmitting shipper's export data. The first option is the standard paper filing of the SED. The AES will also provide AES participants with three electronic filing options for submission of shipper's export data.

(a) *Participation.* Participation in the AES is voluntary and is designed to use technology available to both large and small businesses. Companies that are not automated can submit data through a service center or port authority that provides the capability to communicate with the Customs Data Center in the same way as automated companies. Companies may also buy a software package designed by an AES certified software vendor. Certified trade

participants can transmit to and receive data from the AES pertaining to merchandise being exported from the United States. Participants in the AES process, who may apply for AES certification, include exporters or their authorized forwarding agents, carriers, non-vessel operating common carriers (NVOCC), port authorities, software vendors, or service centers. Once becoming certified an AES filer must agree to stay in complete compliance with all export rules and regulations.

(b) *Letter of Intent.* The first requirement for all participation in AES, including approval for Option 4 filing privileges, is to submit a complete and accurate Letter of Intent to the Census Bureau. The Letter of Intent is a written statement of a company's desire to participate in AES. It must set forth a commitment to develop, maintain, and adhere to Customs and Census Bureau performance requirements and operations standards. Once the Letter of Intent is received, a U.S. Customs Client Representative and a Census Bureau Client Representative will be assigned to work with the company. The Census Bureau will forward additional information to prepare the company for filing export data using the AES. The format and content for preparing the Letter of Intent is provided in Appendix A of this part.

(c) *General filing and transmission requirements.* The data elements required for filing shipper's export data electronically are contained in § 30.63. For AES, the difference is that the certified filer must transmit the shipper's export information electronically using the AES, rather than delivering the paper SED to the carrier. When transmitting export information electronically, the AES filers must comply with the data transmission procedures determined by Customs and the Census Bureau (See § 30.62 for AES certification, qualifications, and standards).

(d) *General responsibilities of exporters, forwarding agents, and sea carriers.* (1) *Exporter and authorized forwarding agent responsibilities.* The exporter and/or their authorized forwarding agents, certified for AES filing, are responsible for:

(i) Transmitting complete and accurate information to the AES (see § 30.4(a) and § 30.7(d) (1), (2), and (e) for a delineation of responsibilities of exporters and authorized forwarding agents);

(ii) Transmitting information to the AES in a timely manner in accordance with the provisions and requirements contained in this Subpart;

(iii) Responding to messages identified as fatal error, warning, verify, or reminder generated by AES in accordance with the provisions contained in this Subpart;

(iv) Providing the exporting carrier with the required exemption statements or citations when an item or shipment is exempt from SED filing requirements in accordance with provisions contained in this Subpart;

(v) Transmitting corrections or cancellations to information transmitted to the AES as soon as the need for such changes is determined in accordance with provisions contained in this Subpart; and

(vi) Maintaining all necessary and proper documentation related to the AES export transaction in accordance with provisions contained in this Subpart.

(2) *Sea carrier responsibilities.* The exporting sea carrier is responsible for transmitting timely, accurate, and complete manifests and bills of lading information to AES for all cargo being shipped. The exporting sea carrier is also responsible for transmitting booking, receipt of booking, and manifest messages to AES. Customs and Census Bureau officials, with written agreement of the exporting sea carrier, can provide for alternative methods of filing manifest and SED information to that found in this Subpart. For exporting carrier responsibilities see Subpart B, of this part, General Requirements—Exporting Carriers. For electronic filing of manifest information using the AES, see 19 CFR 4.76, *Procedures and responsibilities for electronic filing of sea manifests through AES.*

§ 30.61 Electronic filing options.

As an alternative to filing paper Shipper's Export Declaration forms (Option 1), three electronic filing options for transmitting shipper's export information are available to exporters or their authorized forwarding agents. Two of the electronic filing options (Options 3 & 4) take into account that complete information concerning export shipments is not always available at the time of shipment. The available AES electronic filing options are as follows:

(a) *AES with full information transmitted prior to exportation (Option 2).* Option 2 provides for the electronic filing of *all* information required for exports to AES prior to exportation (see § 30.63 for information required to be reported electronically). Full predeparture information is always required to be transmitted to AES for the following specific types of shipments:

(1) Used self-propelled vehicles as defined in 19 CFR 192.1;

(2) Essential and precursor chemicals requiring a permit from the Drug Enforcement Administration;

(3) Shipments defined as "sensitive" by Executive Order; and

(4) Shipments where full export information is required prior to exportation by a Federal Government agency.

(b) *AES with partial information transmitted prior to exportation (Option 3).* Option 3 provides for the electronic filing of *specified* data elements to the AES prior to exportation (see Appendix B of this part for a list of specified data elements). Filing Option 3 is available for all methods of transportation. Option 3 is designed for those shipments for which full data are not available prior to exportation. No prior approval from the Census Bureau or Customs is required for certified AES filers to use Option 3. However, full predeparture information must be transmitted to the AES for certain specified transactions (as specified in Option 2). For shipments that require an export license, the exporter must file using Option 2 or 3, unless the licensing agency specifically approves the exporter for Option 4 filing for the licensed shipment under its jurisdiction. Where partial information is provided under Option 3, complete export information must be transmitted as soon as it is known, but not later than five (5) working days from the date of exportation. The exporter, their authorized forwarding agent, or other certified AES filer authorized by the exporter, must provide the exporting carrier with a unique shipment reference number prior to exportation.

(c) *AES with no information transmitted prior to exportation (Option 4).* Option 4 is only available for approved exporters and requires *no* export information to be transmitted electronically using AES prior to exportation. For approved Option 4 filers, all shipments (other than those requiring an export license, unless specifically approved by the licensing agency for Option 4 filing, and those specifically required under electronic filing Options 2 or 3) by all methods of transportation may be exported with no information transmitted prior to exportation. Certified AES authorized forwarding agents or service centers may transmit information post-departure on behalf of approved Option 4 exporters. All exporters filing a Letter of Intent for Option 4 filing privileges will be cleared through a formal review process by Customs, the Census Bureau, and other federal government agencies participating in the AES (partnership agencies) in accordance with provisions

contained in § 30.62. Where exportation is made with no prior AES filing, complete export information should be transmitted as soon as it is known, but no later than ten (10) working days from the date of exportation. The exporter or their authorized forwarding agent must provide the exporting carrier with the exporter's Option 4 AES identification number prior to exportation.

§ 30.62 AES certification, qualifications, and standards.

(a) *AES certification process.* Certification for AES filing will apply to any exporter, authorized forwarding agent, carrier, consolidator, service center, port authority, or software vendor transmitting export information electronically using the AES. Applicants interested in AES filing must submit a Letter of Intent to the Census Bureau in accordance with the provisions contained in § 30.60. Customs and the Census Bureau will assign client representatives to work with the applicant to prepare them for AES certification. The AES applicant must perform an initial two-part communication test to ascertain whether the applicant's system is capable of both transmitting data to and receiving data from the AES. The applicant must demonstrate specific system application capabilities. The capability to correctly handle these system applications is the prerequisite to certification for participation in the AES. The applicant must successfully transmit the AES certification test. Assistance is provided by the Customs' and Census Bureau's client representatives during certification testing. These representatives make the sole determination as to whether or not the applicant qualifies for certification. Upon successful completion of certification testing, the applicant's status is moved from testing mode to operational mode. Upon certification, the filer will be required to maintain an acceptable level of performance in AES filings. The certified AES filer may be subject to repeat the certification testing process at any time to ensure that operational standards for quality and volume of data are maintained.

(1) *Forwarding agent certification.* Once an authorized forwarding agent has successfully completed the certification process, the exporter(s) using that forwarding agent need no further AES certification of their own. The certified forwarding agent must have a properly executed power of attorney, a written authorization from the exporter, or an SED signed by the exporter to transmit the exporter's data electronically using the AES. The

exporter or authorized forwarding agent that utilizes a service center or port authority must complete certification testing unless the service center or port authority has a formal power of attorney or written authorization from the exporter to submit the export information on behalf of the exporter.

(2) *AES certification letter.* The Census Bureau will provide the certified AES filer with a certification letter after the applicant has been approved for operational status. The certification letter will include:

(i) The date that filers may begin transmitting "live" data electronically using AES;

(ii) Reporting instructions; and

(iii) Examples of the required AES exemption legends.

(3) *AES filing standards.* The certified AES filer's data will be monitored and reviewed for quality, timeliness, and coverage. The Census Bureau will notify the AES filer in writing if they fail to maintain an acceptable level of quality, timeliness, and coverage in the transmission of export data or fail to maintain compliance with Census Bureau regulations contained in this chapter. The Census Bureau will direct that appropriate action to correct the specific situation(s) be taken.

(b) *Criteria for denial of applications requesting Option 4 filing status; appeal procedure.* Approval for Option 4 filing privileges will apply only to exporters. However, forwarding agents may apply for Option 4 filing privileges on behalf of an individual exporter. Option 4 applicants must submit a Letter of Intent to the Census Bureau in accordance with the provisions contained in § 30.60.

(1) *Option 4 approval process.* The Census Bureau will distribute the Letter's of Intent for Option 4 filing privileges to Customs and the other partnership agencies participating in the AES Option 4 approval process. Failure to meet the standards of the Census Bureau, Customs, or one of the partnership agencies is reason for nonselection or denial of the application for Option 4 filing privileges. Each partnership agency will develop its own internal Option 4 acceptance standards and each agency will notify the Census Bureau of the applicant's failure to meet that agency's acceptance standards. If the Census Bureau does not receive either notification of denial, or a request for extension from the partnership agency within thirty (30) calendar days after the date of referral of the Letter of Intent to the partnership agency, the applicant is deemed to be approved by that agency. The Census Bureau will provide the Option 4 applicant with an

approval or denial letter. If a denial letter is issued, the Census Bureau will indicate the partnership agency that denied the application. The applicant must contact the denying partnership agency for the specific reason(s) for denial.

(2) *Grounds for denial of Option 4 filing status.* The Census Bureau may deny an exporter's application for Option 4 filing privileges for any of the following reasons:

(i) Applicant is not an established exporter, as defined in this chapter, with regular operations;

(ii) Applicant has failed to submit SED's to the Census Bureau for processing in a timely and accurate manner;

(iii) Applicant has a history of noncompliance with Census Bureau export laws and regulations contained in this chapter;

(iv) Applicant has been indicted, convicted, or is currently under investigation for a felony involving a violation of Federal export laws or regulations and the Census Bureau has evidence of probable cause supporting such violation, or the applicant is in violation of Census Bureau laws or regulations contained in this chapter; and

(v) Applicant has made or caused to be made in the Letter of Intent a false or misleading statement or omission with respect to any material fact.

(3) *Notice of nonselection and appeal procedures for Option 4 filing.* The Census Bureau will notify applicants in writing of the decision to either deny or approve the applicant for Option 4 filing privileges within thirty (30) days of receipt of the Letter of Intent by the Census Bureau, or if a decision cannot be reached at that time the applicant will be notified of an expected date for a final decision as soon as possible after the thirty (30) calendar days. Applicants for Option 4 filing privileges denied Option 4 status by other partnership agencies must contact those agencies regarding the specific reason(s) for nonselection and for their appeal procedures. Applicants denied Option 4 status by the Census Bureau will be provided with a specific reason for nonselection and a Census Bureau point of contact in the notification letter. Option 4 applicants may appeal the Census Bureau's nonselection decision by following the appeal procedure provided in paragraph (b)(5) of this section.

(4) *Revocation of Option 4 filing privileges.* The Census Bureau may revoke Option 4 filing privileges of approved Option 4 exporters for the following reasons:

(i) The exporter has made or caused to be made in the Letter of Intent a false or misleading statement or omission with respect to material fact;

(ii) The exporter submitting the Letter of Intent is indicted, convicted, or is currently under investigation for a felony involving a violation of Federal export laws or regulations and the Census Bureau has evidence of probable cause supporting such violation, or the applicant is in violation of Census Bureau laws or regulations contained in this chapter;

(iii) The exporter has failed to substantially comply with existing Census Bureau or other agency export regulations; or

(iv) The Census Bureau determines that continued participation in Option 4 by an exporter would pose a significant threat to national security interests such that their continued participation in Option 4 should be terminated.

(5) *Notice of revocation; appeal procedure.* Approved Option 4 filers whose Option 4 filing privileges have been revoked by other agencies must contact those agencies for their specific revocation and appeal procedures. When the Census Bureau makes a determination to revoke an approved Option 4 filer's AES Option 4 filing privileges, the exporter will be notified in writing of the reason(s) for the decision. The exporter may challenge the Census Bureau's decision by filing an appeal within thirty (30) calendar days of receipt of the notice of decision. In most cases, the revocation shall become effective when the exporter has either exhausted all appeal proceedings, or thirty (30) calendar days after receipt of the notice of revocation, if no appeal is filed. However, in cases when required by national security interests, revocations will become effective immediately upon notification. Appeals should be addressed to the Chief, Foreign Trade Division, Bureau of the Census, Washington, D.C. 20233. The Census Bureau will issue a written decision to the exporter within thirty (30) calendar days from the date of receipt of the appeal by the Census Bureau. If a written decision is not issued within thirty (30) calendar days, a notice of extension will be forwarded within that time period. The exporter will be provided with the reasons for the extension of this time period and an expected date of decision. Approved Option 4 exporters who have had their Option 4 filing status revoked may not reapply for this status for one year following written notification of the revocation. Such applications will not be considered before the one-year time period.

§ 30.63 Information required to be reported electronically through AES (data elements).

The information (data elements) listed in this section is required for shipments transmitted electronically through AES. The data elements as they pertain to electronic reporting are defined as paragraphs (a), (b), and (c) of this section. Those data elements that are defined in more detail in other sections of the FTSR are so noted. The data elements identified as "mandatory" must be reported for each transmission. The data elements identified as "conditional" must be reported if they are required for or apply to the specific shipment. The data elements identified as "optional" may be reported at the discretion of the exporter.

(a) Mandatory data elements are as follows:

(1) Exporter/exporter identification.

(i) *Name and address of the exporter.* The exporter is any person in the United States who is the principal or seller in the export transaction. Generally the exporter is the U.S. manufacturer (if selling the merchandise for export), the U.S. seller, order party, or licensee on an export license. A forwarding agent may be reported as exporter when named as applicant and licensee on an export license. A foreign entity, not located in the United States at the time of export, must not be reported as exporter. (See § 30.4(a) and § 30.7(d) (1), (2), and (e) for details.)

(ii) *Exporter's profile.* The exporter's Employer Identification Number (EIN) or Social Security Number (SSN) and exporter name, address, contact, and telephone number must be reported with the initial shipment. Subsequent shipments may be identified by either EIN, SSN, or DUNS (Dunn and Bradstreet) number. If no EIN, SSN, or DUNS number is available for the exporter, as in the case of a foreign entity being shown as exporter as defined in § 30.7(d), the border crossing number, passport number, or any other number assigned by U.S. Customs is required to be reported. (See § 30.7(d)(2) for a detailed description of the EIN.)

(2) *Date of exportation/date of arrival.* The exporter or the authorized forwarding agent in the export transaction must report the date the merchandise is scheduled to leave the United States for all modes of transportation. If the actual date is not known, report the best estimate of departure. The estimated date of arrival must be reported for shipments to Puerto Rico. (See § 30.7(r) for additional information.)

(3) *Ultimate consignee.* The ultimate consignee is the person, party or designee on the export license who is

located abroad and actually receives the export shipment. The ultimate consignee known at the time of export must be reported. For goods sold en route, report "SOLD EN ROUTE" and report corrected information as soon as it is known. (See § 30.7(f) for more information.)

(4) *U.S. state of origin.* Report the 2-character postal abbreviation for the state in which the merchandise begins its journey to the port of export. (See § 30.7(t) (1) and (2) for more information.)

(5) *Country of ultimate destination.* Report the 2-character International Standards Organization (ISO) code for the country of ultimate destination. The country of ultimate destination, as shown on the export license, or the country as known to the exporter or principal party in interest in the export transaction at the time of export is the country in which the merchandise is to be consumed or further processed or manufactured. For goods sold en route, report the country of the first port of call and then report corrected information as soon as it is known. (See § 30.7(i) for more information.)

(6) *Method of transportation.* The method of transportation is defined as that by which the goods are exported or shipped. Report one of the codes listed in Part I of Appendix C of this part. (See § 30.7(b) for detailed information on method of transportation.)

(7) *Conveyance name.* The name of the carrier (sea—vessel name; others—carrier name) must be reported by the exporter or the exporter's agent as known at the time of shipment for all shipments leaving the country by sea, air, truck or rail. Terms such as "airplane," "train," "truck," or "international footbridge" are not acceptable and will generate an error message. (See § 30.7(c) for more information.)

(8) *Carrier identification.* Report the 4-character Standard Carrier Alpha Code (SCAC) for vessel, rail, and truck shipments and the 2- or 3-character International Air Transport Association (IATA) Code for air shipments to identify the carrier actually transporting the merchandise out of the United States. (See § 30.7(c) for more information.)

(9) *Port of export.* Report the code of the U.S. Customs port of export in terms of Schedule D, "Classification of Customs Districts and Ports." (See §§ 30.7(a) and 30.20(c) and (d) for more information on port of export.)

(10) *Related/nonrelated indicator.* Indicate if the shipment is between related parties. Report the information as defined in § 30.7(v).

(11) *Domestic or foreign indicator.* Indicate if the commodities are of domestic or foreign production. Report the information as defined in § 30.7(p).

(12) *Commodity classification number.* Report the 10-digit commodity classification number as provided in Schedule B, "Statistical Classification of Domestic and Foreign Commodities Exported from the United States" (Schedule B). The 10-digit commodity classification number provided in the Harmonized Tariff Schedule (HTS) may be reported in lieu of the Schedule B Commodity classification number except as noted in the headnotes of the HTS. (See § 30.7(l) for detailed information.)

(13) *Commodity description.* Report the commercial description in sufficient detail to permit the verification of the commodity classification number. (See § 30.7(l) for more information regarding reporting the description.)

(14) *First net quantity/unit of measure.* Report the primary net quantity in the specified unit of measure and the unit of measure as prescribed in the Schedule B or HTS or as specified on the export license.

(15) *Gross shipping weight.* Report the gross shipping weight in kilograms for vessel, air, truck, and rail shipments. Include the weight of containers but exclude the weight of carrier equipment. (See § 30.7(o) for more information.)

(16) *Value.* The value shall be the selling price or cost if not sold, including inland freight, insurance, and other charges to the U.S. port of export. Report the value in U.S. currency. (See § 30.7(q) for more information.)

(17) *Export information code.* Report the appropriate 2-character export information code as provided in Part II of Appendix C of this part.

(18) *Filer reference number.* The filer of the export transaction provides a unique reference number that allows for identification of the transaction in their system. This reference number must be unique for five years.

(19) *Line item number.* Report a line number for each commodity for a unique identification of the commodity.

(20) *Hazardous material indicator.* This is a "Yes" or "No" indicator identifying the shipment as hazardous as defined by the Department of Transportation.

(21) *In-bond code.* Report one of the 2-character in-bond codes listed in Part IV of Appendix C of this part to indicate the type of In-Bond or Not In-Bond shipment.

(b) Conditional data elements are as follows:

(1) *Forwarding agent/forwarding agent identification.* (i) *Name and*

address of the forwarding agent. The forwarding agent is any person in the United States or under jurisdiction of the United States who is authorized by the exporter to perform the services required to facilitate the export of merchandise out of the United States or the person named in the validated export license. (See §§ 30.4(a) and 30.7(e) for details.)

(i) *Forwarding agent's profile.* The forwarding agent's identification number, EIN, DUNS, or SSN and name and address must be reported with the initial shipment. Subsequent shipments may be identified by the identification number.

(2) *Intermediate consignee.* The intermediary (if any) who acts in a foreign country as an agent for the exporter or the principal party in interest or the ultimate consignee for the purpose of effecting delivery of the export shipment to the ultimate consignee or the person named on the export license. (See § 30.7(g) for more information.)

(3) *Foreign Trade Zone number.* Report the unique 5-character code assigned by the Foreign Trade Board that identifies the Foreign Trade Zone from which merchandise is withdrawn for export. (See § 30.7(t)(3) for more information.)

(4) *Foreign port of unloading.* For sea shipments only, the code of the foreign port of unloading should be reported in terms of the 5-digit codes designated in Schedule K, "Classification of Foreign Ports by Geographic Trade Area and Country." (See § 30.7(h) for detailed definitions of port of unloading.)

(5) *License number/CFR citation/license code.* For licensable commodities, report the license number of the license issued for the merchandise. If no license is required, report the regulatory citation exempting the merchandise from licensing or the conditions under which the merchandise is being shipped that make it exempt from licensing. Report one of the 3-character codes listed in Part III of Appendix C of this part to indicate the type of license, permit, License Exception, or no license required.

(6) *Export Control Classification Number.* Report the Export Control Classification Number for merchandise as required by the Bureau of Export Administration Regulations (15 CFR Parts 730 through 774).

(7) *Second net quantity/unit of measure.* When Schedule B requires two units of quantity be reported, report the second net quantity in the specified unit of measure and the unit of measure as

prescribed in the Schedule B or HTS. (See § 30.7(n) for more information.)

(8) *Used self-propelled vehicles.*

Report the following items of information for used self-propelled vehicles as defined in 19 CFR 192.1:

(i) *Vehicle Identification Number.* Report the unique Vehicle Identification Number (VIN) in the proper format;

(ii) *Product Identification Number.* Report the Product Identification Number (PIN) for those used self-propelled vehicles for which there are no VINs;

(iii) *Vehicle title number.* Report the unique title number issued by the Motor Vehicle Administration; and

(iv) *Vehicle title state.* Report the 2-character postal abbreviation for the state or territory of the vehicle title.

(9) *Entry number.* Report the Import Entry Number when the export transaction is to be used as proof of export for import transactions such as In-Bond, Temporary Import Bond, Drawback, and so forth.

(10) *Waiver of prior notice.* This is a "Yes" or "No" indicator to determine if the person claiming drawback received a waiver of prior notice for the exported merchandise.

(11) *Booking number.* Report the booking number for all sea shipments.

(c) Optional data elements are as follows:

(1) *Marks and numbers.* The exporter or the authorized forwarding agent in the export transaction may opt to report any special marks or numbers that appear on the physical merchandise or its packaging that can identify the shipment or a portion thereof. (See § 30.7(j) for more information.)

(2) *Equipment number.* Report the container number for containerized shipments. This number may be reported in conjunction with the booking number.

(3) *Seal number.* Report the security seal number of the seal placed on the equipment.

§ 30.64 Transmitting and correcting AES information.

(a) The exporter or their authorized forwarding agent is responsible for electronically transmitting corrections, cancellations, or amendments to shipment information previously transmitted using the AES. Corrections, cancellations, or amendments should be made as soon as possible after exportation when the error or omission is discovered.

(b) For shipments where the exporter or their authorized forwarding agent has received an error message from AES, the corrections must take place immediately. A fatal error message will

cause the shipment to be rejected. This error must be corrected prior to exportation of the merchandise. For shipments where a warning message is received, the correction must be made within four (4) working days of receipt of the transmission, otherwise AES will generate a reminder message to the filer. For shipments with a verify message, corrections when warranted should be made as soon as possible after notification of the error by the AES.

§ 30.65 Annotating the proper exemption legends for shipments transmitted electronically.

The exporter or their authorized forwarding agent is responsible for annotating the proper exemption legend on the bill of lading, airway bill, or other commercial loading document for presentation to the carrier, either on paper or electronically prior to export. The exemption legend will identify that the shipment information has been transmitted electronically using the AES. The exemption legend will include the statement "NO SED REQUIRED—AES" followed by the filer's identification number and a unique shipment reference number or the returned confirmation number. For exporters who have been approved to participate in Filing Option 4, the exemption statement will include the exporter's identification number and the filer's identification number if other than the exporter. The exemption legend must appear on the first page of the bill of lading, airway bill, or other commercial loading document and must be clearly visible.

§ 30.66 Recordkeeping and documentation requirements.

All parties to the export transaction (owners and operators of the exporting carriers and exporters and their authorized forwarding agents) must retain documents or records verifying the shipment for five (5) years from the date of export. Customs, the Census Bureau, and other participating agencies may require that these documents be produced at any time within the 5-year time period for inspection or copying. These records may be retained in an elected format including electronic or hard copy. Acceptance of the documents by Customs or the Census Bureau does not relieve the exporter or their authorized forwarding agent from providing complete and accurate information after the fact.

Subpart H—General Administrative Provisions

7. Section 30.91 is amended by revising paragraph (a) to read as follows:

§ 30.91 Confidential information, Shipper's Export Declarations.

(a) *Confidential status.* The Shipper's Export Declaration is an official Department of Commerce form, prescribed jointly by the Bureau of the Census and the Bureau of Export Administration. Information required thereon is confidential, whether filed electronically or in any other approved format, for use solely for official purposes authorized by the Secretary of Commerce. Use for unauthorized purposes is not permitted. Information required on the Shipper's Export Declarations may not be disclosed to anyone except the exporter or his agent by those having possession of or access to any copy for official purposes, except as provided in paragraph (e) of this section.

* * * * *

8. Appendices A, B, and C are added to part 30 to read as follows:

Appendix A to Part 30—Format for Letter of Intent, Automated Export System (AES)

A. Letters of Intent should be on company letterhead and must include:

1. Company Name, Address (no P.O. Boxes), City, State, Postal Code
2. Company Contact Person, Phone Number, Fax Number
3. Technical Contact Person, Phone Number, Fax Number
4. Corporate Office Address, City, State, Postal Code
5. Computer Site Location Address, City, State, Postal Code
6. Type of Business—Exporter, Freight Forwarder/Broker, Carrier, NVOCC, Port Authority, Software Vendor, Service Center, etc. (Indicate all that apply)
 - (i) Are you currently an AERP Participant? What is the AERP symbol?
 - (ii) Freight Forwarder/Brokers indicate the number of exporters for whom you file export information (AERP and SEDs).
 - (iii) Exporters indicate whether you are applying for AES, Option 4 filing, or both.
7. U.S. Ports of Export Currently Utilized
8. Average Monthly Volume of Export Shipments
9. Average Monthly Value of Export Shipments
10. Filer Code—EIN, DUNS, SSN, or SCAC (Indicate all that apply)
11. Software Vendor Name, Contact, and Phone Number (if using vendor provided software)
12. Look-a-Like Remote to Copy (as provided by vendor)
13. Modes of Transportation used for export shipments (Air, Vessel, Truck, Rail, etc.)
14. Types of Merchandise exported
15. Types of Licenses or Permits
16. Anticipated Implementation Date

B. The following self-certification statement, signed by an officer of the company, must be included in your letter of intent: "I hereby certify that *Company Name*

is, and will continue to be, in compliance with all applicable laws and regulations."

C. Send AES Letter of Intent to: Chief, Foreign Trade Division, Bureau of the Census, Washington, DC 20233. Or, the copy can be faxed to: 301-457-1159.

Appendix B to Part 30—Required Pre-Departure Data Elements for Filing Option 3

- (1) Identifier of Exporter—EIN, etc.
- (2) Forwarding Agent I.D.—EIN, etc.
- (3) Carrier I.D. (SCAC or IATA).
- (4) Country of Ultimate Destination—ISO code.
- (5) Name of Ultimate Consignee.
- (6) (a) Commodity description or (b) Optional—Schedule B No. or HTS code
- (7) Unique Identifying Number—shipment reference number (17 characters or less), e.g., airway bill number. (The unique identifying number/shipment reference number must appear in the shipper's reference number field on the ocean bill of lading).
- (8) Intended U.S. Port of Export
- (9) Estimated Date of Export.
- (10) Transportation Reference Number, e.g., vessel booking number, airway bill number.
- (11) Method of Transportation (MOT) code.
- (12) HAZMAT—Y/N
- (13) License code.
- (14) Export License Number.

Appendix C to Part 30—Electronic (AES) Filing Codes*Part I—Method of Transportation Codes*

- 10 Sea
- 11 Sea Containerized
- 12 Sea (Barge)
- 20 Rail
- 30 Truck
- 32 Auto
- 33 Pedestrian
- 34 Road, Other
- 50 Mail
- 40 Air
- 60 Passenger, Hand Carried
- 70 Fixed Transport (Pipeline and Powerhouse)

Part II—Export Information Codes

- LC Shipments valued \$2,500 or less per classification number that are required to be reported
- TP Temporary exports of domestic merchandise
- IP Shipments of merchandise imported under a Temporary Import Bond for further manufacturing or processing
- IR Shipments of merchandise imported under a Temporary Import Bond for repair
- DB Drawback
- CH Shipments of goods donated for charity
- FS Foreign Military Sales
- OS All other exports
- HV Shipments of personally owned vehicles
- HH Household and personal effects
- SR Ship's stores
- TE Temporary exports to be returned to the United States
- TL Merchandise leased for less than a year

- IS Shipments of merchandise imported under a Temporary Import Bond for return in the same condition
- CR Shipments moving under a carnet
- GP U.S. government shipments
- LV Shipments valued \$2,500 or less that are not required to be reported
- SS Carriers' stores for use on the carrier
- MS Shipments consigned to the U.S. armed forces
- GS Shipments to U.S. government agencies for their use
- DP Diplomatic pouches
- HR Human remains
- UG Gift parcels under Bureau of Export Administration License Exception GFT
- IC Interplant correspondence
- SC Instruments of international trade
- DD Other exemptions:
 - Currency
 - Airline tickets
 - Bank notes
 - Internal revenue stamps
 - State liquor stamps
 - Advertising literature
 - Shipments of temporary imports by foreign entities for their use
- RJ Inadmissible merchandise

(See §§ 30.50 through 30.58 for information on filing exemptions.)

Part III—License Codes

Department of Commerce, Bureau of Export Administration (BXA) Licenses

- C30 BXA Licenses
- C31 SCL
- C32 NLR (CCL/NS Column 2)
- C33 NLR (All Others)
- C34 Future Use
- C35 LVS
- C36 GBS
- C37 CIV
- C38 TSR
- C39 CTP
- C40 TMP
- C41 RPL
- C42 GOV
- C43 GFT
- C44 TSU
- C45 BAG
- C46 AVS
- C47 APR
- C48 KMI
- C49 TAPS
- C50 ENC

Nuclear Regulatory Commission (NRC) Codes

- N01 NRC Form 250/250A
- N02 NRC General License

Department of State, Office of Defense Trade Controls (ODTC) Codes

- SAG Agreements
- S00 License Exemption Citation
- S05 DSP-5
- S61 DSP-61
- S73 DSP-73
- S85 DSP-85

Department of Treasury, Office of Foreign Assets Control (OFAC) Codes

- T10 OFAC Specific License
- T11 OFAC General License

Other License Types	37	Warehouse Withdrawal for Transportation and Exportation
OPA Other Partnership Agency Licenses not listed above	62	Transportation and Exportation
<i>Part IV—In-Bond Codes</i>	63	Immediate Exportation
70 Not-In-Bond	67	Immediate Exportation from a Foreign Trade Zone
36 Warehouse Withdrawal for Immediate Exportation	68	Transportation and Exportation from a Foreign Trade Zone

Dated: January 19, 1999.

Kenneth Prewitt,

Director, Bureau of the Census.

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